

REMARKS

Claim 24-29, 31-35, 36-41 and 44-46 were pending but only claim 35 was being examined. Applicants have amended claim 35 and added new claims 47-53. Accordingly, only claims 35 and 47-53 are being examined.

Support for amended claim 35 and new claims 47-53 may be found in the claims and specification as originally filed. Accordingly, these changes do not involve new matter and Applicants respectfully request entry of these changes.

Support for new amended claim 35 may be found in the specification as originally filed at page 30, lines 22-29.

Support for new claim 47 may be found in the specification as originally filed at page 30, lines 22-29.

Support for new claim 48 may be found in the specification as originally filed at page 28, lines 27-29, page 29, lines 4-9 and lines 16-21 and originally filed claim 34.

Support for new claim 49 may be found in the specification as originally filed at page 12, lines 36-38 and page 31, lines 15-17.

Support for new claim 50 may be found in the specification as originally filed at page 28, lines 25-30.

Support for new claim 51 may be found in the specification as originally filed at page 30, lines 25-38 and page 31, lines 1-5.

Support for new claims 52 and 53 may be found in the specification as originally filed at page 30, lines 15-16 and page 31, lines 8-20.

In accordance with the changes to the claims and the remarks that follow, Applicants respectfully request reconsideration of the outstanding rejections.

ITEM 1: STATUS OF CLAIMS

At page 2 of the Office Action, the Office acknowledges Applicants' amendment filed on June 6, 2006, and confirms that claims 1-23, 30, 42 and 43 have been cancelled, claims 24-29, 31-34, 36-41 and 44-46 have been withdrawn from consideration as being drawn to a non-elected invention and claim 35 is under examination.

ITEM 2: REJECTION UNDER 35 U.S.C § 102(b)

At pages 2-3 of the Office Action, the Office has indicated that the rejection of claim 35 under 35 U.S.C. §102(b) as being anticipated by Sheppard (WO 98/45442) as evidenced by Kreitman (Exp. Op. Pharmacother, 2000, 1:1117-1129) has been withdrawn. No response is due.

ITEMS 3-5: DOUBLE PATENTING

At pages 3-4 of the Office Action, the Office has provisionally rejected claim 35 as allegedly unpatentable over:

- (A) copending Application No. 10/624,884, and
- (B) copending Application No. 10/895,183.

Applicants respectfully disagree.

In response, regarding item (A) above, Applicants respectfully point out that this issue is not ripe. Applicants will revisit this issue at the appropriate time, i.e., when the Patent Office allows the overlapping claims in the subject application.

Regarding item (B) above, the subject application claims a method for selectively destroying a cell expressing the polypeptide of SEQ ID NO:2, the method comprising contacting said cell with an amount of an immunoconjugate that can destroy said cell. However, the copending Application No. 10/895,183 claims human antibodies comprising specific light chain and heavy chain sequences. The subject application neither claims nor teaches human antibodies comprising specific light and heavy chain sequences. Therefore, the claimed invention is patentably distinct from that of the copending Application No. 10/895,183. Accordingly, Applicants respectfully request that the Office withdraw the rejection.

ITEMS 6-8: REJECTION UNDER 35 U.S.C. §112 FIRST PARAGRAPH

At pages 4-7 of the Office Action, the Office rejected claim 35 under 35 U.S.C. §112, first paragraph, as allegedly non-enabling and failing to comply with the written description requirement.

(A) The Office rejected claims 35 alleging that the specification does not reasonably provide enablement for a method of destroying a cell by contacting said cell with immunoconjugates that comprise therapeutic agents or with immunoconjugates that comprise antibodies that bind epitopes 70% identical to the listed epitopes.

Applicants respectfully disagree.

However, in the interest of furthering the prosecution of the subject application, Applicants' have amended the claim to remove the recitation of "a polypeptide which is at least 70% identical to the polypeptide[s]" recited in the claim, and have also amended the claim to recite "cytotoxic agent" instead of "therapeutic agent". Accordingly, Applicants respectfully request that the Office withdraw the rejection.

(B) The Office rejected claim 35 as allegedly failing to comply with the written description requirement. The Office alleges that the specification does not define the term "therapeutic agent" or identify the structural or functional properties required of the member of the genus of therapeutic agent.

Applicants respectfully disagree.

However, in the interest of furthering the prosecution of the subject application, Applicants have amended the claim to recite "cytotoxic agent" instead of "therapeutic agent". Accordingly, Applicants respectfully request that the Office withdraw the rejection.

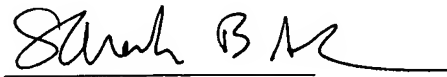
CONCLUSION

Entry of this Amendment and the foregoing remarks are respectfully requested. Applicants believe that all grounds for rejection of the claims have been overcome and that the claims pending are now in condition for allowance. Withdrawal of the Patent Office's rejections is requested and prompt allowance of the claims is solicited. If any issues remain in connection with the claim, the Examiner is encouraged to contact the undersigned by telephone to discuss the same.

Richard Harkins et al.
Serial No. 10/616,279
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Page 15

No fees, other than the \$450.00 for a two-month of extension of time fee, are deemed necessary in connection with the filing of this Amendment. If any fee is necessary, the Patent Office is authorized to charge any additional fee to Deposit Account No. 50-0306.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Sarah B. Adriano", is written over a horizontal line.

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